



Bill No. 20-05
Concerning: Amending Chapter 1-19 of the County
Code (Zoning Ordinance) to Update and Clarify
Transportation, Environmental Resource Protection,
and Historic Preservation Criteria on Rezoning Requests
Introduced: March 3, 2020
Revised: _____ Draft No. _____
Enacted: _____
Effective: _____
Expires: June 1, 2020
Frederick County Code, Chapter 1-19
Section(s) 3,10, 11

COUNTY COUNCIL FOR FREDERICK COUNTY, MARYLAND

By: Council Member Kai Hagen on behalf of County Executive Jan Gardner

AN ACT to: amend Chapter 1-19 of the Frederick County Code (Zoning Ordinance) to update and clarify transportation, environmental resource protection, and historic preservation criteria on rezoning requests.

Executive: _____ Date Received: _____

Approved: _____ Date: _____

Vetoed: _____ Date: _____

By amending:

Frederick County Code, Chapter, 1-19 Section(s) 3, 10, 11

Other: _____

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Heading or defined term.

Added to existing law.

Deleted from existing law.

Existing law unaffected by bill.

Bill No. _____

The County Council of Frederick County, Maryland, finds it necessary and appropriate to amend the Frederick County Code to update and clarify transportation network analysis, environmental resource protection, and historic preservation criteria on rezoning requests, and to update definitions.

NOW, THEREFORE, BE IT ENACTED BY THE COUNTY COUNCIL OF FREDERICK COUNTY, MARYLAND, that the Frederick County Code be, and it is hereby, amended as shown on the attached Exhibit 1.

M. C. Keegan-Ayer, President
County Council of Frederick County,
Maryland

DIVISION 1. ZONING AMENDMENTS

§ 1-19-3.110.4. APPROVAL CRITERIA.

(A) Approval or disapproval of a request for an individual zoning map amendment or floating zone reclassification shall be determined through review of several criteria. The Planning Commission and County Council review will include, but not be limited to:

- (1) Consistency with the comprehensive plan;
- (2) Availability of public facilities;
- (3) Adequacy of existing and future transportation systems;
- (4) Compatibility with existing and proposed development;
- (5) Population change; and
- (6) The timing of development and facilities.

(7) Identification of sensitive environmental resources and how impacts to these resources are avoided or minimized to the maximum extent practicable.

(8) Identification of historic resources and how impacts to these resources are avoided or minimized to the maximum extent practicable.

(B) In addition to the criteria above, approval or disapproval of a request for an individual zoning map amendment shall be granted only where a finding has been made that there was:

- (1) A substantial change in the character of the neighborhood where the property is located;
- or
- (2) A mistake in the existing zoning classification.

DIVISION 5. PLANNED DEVELOPMENT DISTRICTS

§ 1-19-10.500. PLANNED DEVELOPMENT DISTRICTS.

§ 1-19-10.500.1. PURPOSE AND INTENT.

The Planned Development Districts (Planned Unit Development and Mixed Use Development) are floating zones established to provide for new development and redevelopment within identified growth areas that result in an integrated mixture of commercial, employment, residential, recreational, civic and/or cultural land uses as provided within the appropriate Frederick County Comprehensive, Community, or Corridor Plan. These uses planned and developed as a unit are intended to:

- (A) Result in an efficient use of land and the efficient extension of public facilities;

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(B) Allow innovative design involving flexibility not permitted within Euclidean zoning districts;

(C) Promote continuity of new development with existing development through building and site design, including consideration of architectural elements, landscape design, building placement, and street network;

(D) Promote building and site design that reduces dependence on vehicular movement through the provision of bicycle, pedestrian, and transit friendly elements which include transportation circulation networks linking internal and external residential, commercial, employment areas, and recreation, open spaces and public facilities;

(E) Result in an integrated mixture of uses within the Mixed Use Development District and a mixture of housing types within the Planned Unit Development District;

(F) Promote the protection, preservation, and integration of historic resources into the planned development through reuse, adaptive use, and rehabilitation;

(G) Promote the evaluation, protection, and integration of natural features and sensitive environmental resources into building and site design;

(H) Provide development flexibility to respond to market demands.

§ 1-19-10.500.2. SIZE AND LOCATION.

(A) The PUD District may only be established where the tract of land receiving the PUD District has a County Comprehensive Plan Land Use designation of Low Density Residential, Medium Density Residential, or High Density Residential except as provided in § 1-19-10.500.2(D) below.

(B) The MXD District may only be established where the tract of land receiving the MXD District has a County Comprehensive Plan land use designation of Mixed Use Development, Office Research Industrial, or Limited Industrial except as provided in § 1-19-10.500.2(D) below.

(C) The Planned Development Districts may only be established where the tract of land receiving the Planned Development District has a category of Planned Service or higher as shown on the Frederick County Water and Sewerage Plan.

(D) The Planned Development District may be applied to a County Comprehensive Plan land use designation of Natural Resource where the Natural Resource land use designation is a minor portion of the overall tract receiving the Planned Development District. Those portions of the project having a land use designation of Natural Resource may not be included in the density calculation [but may only be developed as provided in § 1-19-10.500.9(B)(2)].

(E) There shall be no minimum tract size, lot area, or lot width for the Planned Development Districts.

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§ 1-19-10.500.3. APPROVAL CRITERIA.

The County Council may approve or disapprove a request for rezoning of property to a Planned Development District if persuaded that granting the request is appropriate and serves the public interest. The approval or disapproval of a request for the application will be determined through evaluation of several criteria to establish whether the proposed project meets the purpose and intent of the zoning district. In addition to the requirements in § 1-19-3.110.4, the Planning Commission and County Council must find that the project adequately addresses the following criteria:

(A) The proposed development is compact, employing design principles that result in efficient consumption of land, efficient extension of public infrastructure, and efficient provision of public facilities;

(B) The proposed development design and building siting are in accordance with the County Comprehensive Plan, and any applicable community and corridor plans;

(C) The proposed development is compatible with existing or anticipated surrounding land uses with regard to size, building scale, intensity, setbacks, and landscaping, or the proposal provides for mitigation of differences in appearance or scale through such means as setbacks, screening, landscaping; or other design features in accordance with the County Comprehensive Plan, and any applicable community or corridor plans;

(D) The proposed development provides a safe and efficient arrangement of land use, buildings, infrastructure, and transportation circulation systems. Factors to be evaluated include: connections between existing and proposed community development patterns, extension of the street network; pedestrian connections to, from, and between buildings, parking areas, recreation, and open space;

(E) The transportation system is or will be made adequate to serve the proposed development in addition to existing and pipeline uses in the area. Factors to be evaluated include: roadway capacity, [and] level of service and safety, on-street parking impacts, access requirements, neighborhood and natural resource impacts, projected construction schedule of planned improvements, pedestrian and bicycle safety, and results of travel demand modeling assessing the change in future daily travel volumes, with and without the proposed development;

(F) The proposed development provides design and building placement that optimizes walking, biking, and use of public transit. Factors to be evaluated include: extension of the street network; existing and proposed community development patterns; and pedestrian connections to, from, and between buildings, parking areas, recreation, and open space;

(G) Existing fire and emergency medical service facilities are or will be made adequate to serve the increased demand from the proposed development in addition to existing uses in the area. Factors to be evaluated include: response time, projected schedule of providing planned improvements, bridges, roads, and nature and type of available response apparatus;

(H) Natural features of the site have been adequately considered and [utilized] protected in the design of the proposed development. Factors to be evaluated include: the relationship of existing natural features to man-made features both on-site and in the immediate vicinity, natural features

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connectivity, energy efficient site design, use of environmental site design or low impact development techniques in accordance with Chapter 1-15.2 of the Frederick County Code;

(I) The proposed mixture of land uses is consistent with the purpose and intent of the underlying County Comprehensive Plan land use designation(s), and any applicable community or corridor plans;

(J) Planned developments shall be served adequately by public facilities and services. Additionally, increased demand for public facilities, services, and utilities created by the proposed development (including without limitation water, sewer, transportation, parks and recreation, schools, fire and emergency services, libraries, and law enforcement) shall be evaluated as adequate or to be made adequate within established county standards[.];

(K) Sensitive environmental resources are protected to the maximum extent practicable; and

(L) All efforts to have been made to promote the protection, preservation, and integration of historic resources into the planned development through reuse, adaptive use, and rehabilitation.

§ 1-19-10.500.4. REVIEW AND APPROVAL PROCEDURES.

Review and approval of the Planned Development District includes a preapplication conference, neighborhood meeting, Phase I justification and floating zone reclassification, and Phase II execution. The applicant must obtain all necessary approvals at each phase prior to proceeding to the next phase.

(A) *Preapplication conference.* Prior to a Phase I application submission, a preapplication conference shall be held with the [Community Development] Division. The conference is intended to provide information to the applicant regarding application requirements, review and approval procedures, neighborhood meeting requirements, discussion of development constraints and opportunities, county policy initiatives, and the County Comprehensive Plan. The applicant shall submit preapplication information in a format acceptable to the [Community Development] Division, including: a description of the tract of land for which the Planned Development District is proposed; existing and proposed land uses; existing historic and natural features; or other information as required to adequately evaluate the application.

(B) *Neighborhood meeting.* Prior to submitting a Phase I application the applicant shall hold a neighborhood meeting. The meeting will provide an opportunity to identify impacts that the project may have on the neighborhood surrounding the proposed project.

(C) *Phase I justification and floating zone reclassification.* The procedure for Phase I approval is the same as for zoning map amendments set forth in §§ 1-19-3.110.1 through 1-19-3.110.6.

(1) Prior to Phase I application the tract of land receiving the proposed Planned Development District shall be classified as Planned Service or higher on the Frederick County Water and Sewerage Plan.

(2) Phase I approval shall include approval of a concept plan graphically illustrating the project. The concept plan shall be submitted for review as part of the Phase I application.

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(D) *Phase II execution.* The procedure for Phase II approval shall follow the applicable subdivision or site development plan review process.

(1) Prior to Phase II application the Planned Development District property must be classified at least W4/S4 on the Frederick County Water and Sewerage Plan.

(2) Subsequent to Phase I approval and prior to or concurrent with Phase II approval the applicant shall obtain Adequate Public Facilities Ordinance (APFO) approval in accordance with Chapter 1-20 of the Frederick County Code.

(3) Subdivision shall occur in accordance with county subdivision regulations. Site development plan review shall occur in accordance with §§ 1-19-3.300 through 1-19-3.300.4.

§ 1-19-10.500.5. APPLICATION.

A Phase I application for Planned Development District reclassification and concept plan approval must include sufficient information to provide the County Council with a basis to approve the overall concept of the project, rezone the property, and set a maximum permitted land use density, or the County Council may in its sole discretion, disapprove the rezoning request. At a minimum, a Phase I application shall include: information regarding the existing site conditions, a concept plan providing a graphic illustration of the proposed development, a justification statement, and a proposed phasing plan in accordance with the following standards:

(A) *Existing site conditions.* Existing site conditions information shall include the following:

(1) A vicinity map at a scale of 1 inch equals 2,000 feet or more to the inch, depicting the tract of land proposed for development with respect to surrounding properties and streets. At a minimum the map will show all streets and highways within 2,000 feet of the property proposed for development. Where available, the vicinity map shall include state assessment tax map, parcel number, and tax identification for all properties depicted.

(2) A boundary survey prepared and certified by a registered land surveyor within the State of Maryland. The boundary survey shall identify all easements affecting the tract of land proposed for development, and other physical encumbrances readily identified by a field inspection.

(3) A transportation map indicating the location of the tract of land proposed for development, with respect to local, collector, and arterial streets, existing easements and rights-of-way on or abutting the tract of land proposed for development, all existing bicycle and pedestrian facilities, and existing and planned transit facilities including routes and stops. The transportation map scale shall be determined at the preapplication conference based on project specifics.

(4) A land use map at a scale of 1 inch = 100 feet, indicating the type, location, acreage, and density of all existing land uses, the general street layout and circulation pattern, including existing zoning and County Comprehensive Plan land use designation. Existing land uses shall be included to a distance of 500 feet surrounding the tract of land proposed for development.

(5) An aerial photograph with the tract of land proposed for development and project site clearly delineated.

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(6) An environmental and natural features map at a minimum scale of 1 inch = 100 feet. Unless otherwise specified by the [Community Development] Division, the map shall reflect the tract of land proposed for development and the first 100 feet of adjoining land or width of the adjacent lot, whichever is less, and include the following:

(a) Intermittent and perennial streams, drainage courses, and historic flow-ways on or within 200 feet of the tract of land proposed for development, including stream setbacks as required in § 1-19-9.400;

(b) Areas of 100 year floodplain as depicted by the Federal Emergency Management Agency flood insurance rate maps or amendments thereto, including floodplain and stream setbacks as required in § 1-19-9.110;

(c) Topography at a minimum of 5 foot contour intervals unless otherwise required by the [Community Development] Division;

(d) Moderate slopes (15% to <25%) and steep slopes (25% or greater);

(e) Wet soils and flooding soils, including buffers;

(f) Tree lines, forested areas, and rock formations including historic, champion, and specimen trees and green infrastructure hubs and corridors;

(g) Location and type of native, exotic, and invasive vegetation;

(h) Jurisdictional wetlands and their buffers, including total acreage;

(i) Any other relevant information as required by the [Community Development] Division;

(7) The location and description of all sites, buildings, structures, or other objects listed on or eligible for the National Register of Historic Places, Frederick County Register of Historic Places, or as listed on the Maryland Inventory of Historic Properties.

(B) *Concept plan*. The concept plan shall be scaled to fit the sheet size of 24 inch x 36 inch, and shall also be submitted at 11 inch x 17 inch, and include the following:

(1) Generalized location and type of existing and proposed easements;

(2) Generalized location, configuration, and typical dimensions of all proposed subdivision lots;

(3) Generalized location, configuration, and description of proposed land use areas including: land use, square footage, height, and number of stories of proposed buildings, proposed density, parking and loading areas, ingress and egress, natural features, historic and cultural features, and recreation/open space areas;

(4) Existing land use surrounding the subject property including zoning and County Comprehensive Plan land use designation;

(5) A transportation map detailing the generalized location and design of the proposed internal and external vehicular and nonvehicular transportation network, connections to existing transportation facilities, and general trip generation for the proposed land use(s).

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(6) A table and comparative analysis providing an explanation of the project gross and net density as proposed within the PUD or MXD District compared to the gross and net density as permitted within the existing land use designation. For the purposes of calculating gross and net density the following formulas shall be used:

total number of dwelling units ÷ total project acreage = gross density

total number of dwelling units ÷ the total project buildable acreage = net density

The calculation of net density excludes: [floodplain, roadways, and other land proposed to be dedicated for public purposes].

- a. FEMA floodplain boundaries, including 25' floodplain buffer.
- b. Flooding soils, including 25' buffer.
- c. Priority forest conservation and forestation areas as listed under § 1-21-40.
- d. Jurisdictional wetland boundaries and 25' buffers.
- e. Hydrography, including perennial and intermittent streams and stream body buffer setback.
- f. Steep slopes (over 25%) associated with hydrological features and/or erodible soils.
- g. Nonresidential components (i.e. commercial areas).
- h. Roadways and other land proposed to be dedicated for public purpose.

(7) Building and spaces visualization. The Phase I application shall include a buildings and spaces visualization component to serve as a graphical translation of the Planned Development District concept plan. This application component may utilize any visualization tool necessary to adequately demonstrate the conceptual layout of streets, buildings, open spaces, and structures in the Planned Development District. The primary purpose of this component shall be to communicate the conceptual form of the proposed development for the purpose of evaluating whether the project meets the Planned Development District provisions.

(8) Identification of scenic views onto the tract from surrounding roads and public areas and how impacts to these view sheds are mitigated.

(9) Identification of historic resources and how all efforts have been made to promote the protection, preservation, and integration of historic resources into the planned development through reuse, adaptive use, and rehabilitation.

(10) Identification of sensitive environmental resources and how impacts to these resources are avoided or minimized to the maximum extent practicable. Sensitive environmental resources include but are not limited to;

- a. FEMA floodplain boundaries, including 25' floodplain buffer.
- b. Flooding soils, including 25' buffer.
- c. Priority forest conservation and forestation areas as listed under § 1-21-40.
- d. Jurisdictional wetland boundaries and 25' buffers.
- e. Hydrography, including perennial and intermittent streams and stream body buffer setbacks; and
- f. Steep slopes (over 25%) associated with hydrological features and/or erodible soils.

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g. Areas identified as green infrastructure network and/or sensitive species areas in the green infrastructure sector of the Livable Frederick Master Plan

(C) The justification statement. The justification statement shall address each of the approval criteria set forth above and within §§ 1-19-3.110.1 through 1-19-3.110.6 of this chapter.

(D) The phasing plan. The proposed phasing plan shall describe the timing and sequence for dedication of public lands and development of public facilities and utilities.

(E) The Phase II application shall be provided in accordance with all applicable subdivision or site development plan review requirements, in addition to other required submissions and approvals (including without limitation, Adequate Public Facilities Ordinance studies, Forest Resource Ordinance plans, sight-distance studies, and stormwater management concepts).

(F) A combined application for PUD and MXD Districts may be submitted where the subject property is to be divided into development areas which correspond to a different planned development category; and where each development area is identified by a separate legal description.

(G) Traffic analysis. Based on an approved scope of work by the county and the methodologies set forth in the Guidelines For The Preparation Of Traffic Impact Analyses For Development Applications, analyze the adequacy of the road network based on pertinent criteria from 1-19.10.500.3(e) and detail improvements, timing of improvements, and phasing of development necessary, if the impact of the development causes inadequacy of the road or a high degree of reduction of service.

§ 1-19-10.500.6. LAND USE, MIXTURE, AND DESIGN REQUIREMENTS WITHIN THE PUD DISTRICT.

(A) *Land use permitted within the PUD District.* General land use type and location shall be approved by the County Council in concept at Phase I and specifically by the Planning Commission through site development plan review at Phase II. Land uses permitted within the PUD district are limited to:

(1) Residential. All residential uses including single family, duplex, townhouse, multifamily, or a continuing care retirement community (CCRC).

(2) Commercial. Those uses permitted within the Village Center zoning district, indoor sports recreation facilities without racetracks, and funeral homes.

(3) Employment. Those uses permitted within the ORI zoning district as approved by the Planning Commission.

(4) Institutional. Institutional uses shall be limited to recreational and community activities, public services and facilities, health care facilities, schools, and institutional uses as provided within § 1-19-5.310 Use Table.

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(5) Uses which are customary, accessory or associated with uses as permitted within this section or specifically approved by the Zoning Administrator including: private garages, storage spaces, tool sheds, or other similar uses.

(6) A CCRC PUD or a CCRC as a portion of a PUD may include related accessory uses for the benefit or convenience of the residents and their guests including but not limited to: kitchen and dining facilities, restaurants, places of worship, indoor and outdoor recreational uses, retail and banking facilities, beauty salon and barbershops, gift shops, classrooms, medical offices, medical clinic, laboratory services, exercise and vocational activity areas. A complete listing and range of square footage for each individual accessory use must be shown on the Phase I plan. The County Council may deny or reduce the size, type, location, and/or mixture of the various accessory uses if determined that it is inappropriate for the site or overall area of the CCRC.

(B) *Residential land use mixture within the PUD District.* A goal of the PUD district is to provide an optimal mixture of housing types, including single family dwellings, townhouses, and multifamily dwellings. It is recognized that each development project is unique and will benefit from its own mixture of housing types. The specific mixture of housing types for each development project shall be established by the County Council at Phase I, based on an evaluation of the following:

(1) Existing County Comprehensive Plan land use designation and the intended dwelling type and density.

(2) Need for a particular dwelling type based on existing and proposed residential dwelling types surrounding the tract of land receiving the PUD district.

(3) The County Comprehensive Plan community design policy of including a variety of dwelling types in all communities in Frederick County.

(4) The mixture of dwellings recommended within the County Comprehensive, Community, and Corridor Plans for the tract of land receiving the PUD district.

(5) The amount and type of moderately priced dwelling units provided.

(C) *Commercial land use mixture within the PUD District.* In establishing the mixture of land uses in the PUD District the County Council shall include an evaluation of the relationship between proposed residential land uses and surrounding existing and proposed commercial land uses. This evaluation shall establish whether existing and proposed commercial land uses can adequately provide retail, business, and personal services to the proposed residential land use. Where it is determined that existing and proposed commercial and employment land uses will not adequately provide for the proposed residential land use, a minimum amount of commercial and employment land uses shall be required as part of the proposed development. The requirement of additional commercial and employment land uses shall be determined based on an evaluation of the following factors:

(1) Whether the number and type of existing or proposed commercial/employment land uses located within a distance that may be reasonably expected to serve a majority of the proposed residential dwelling units adequately provide retail, business, and personal services to the proposed residential land use.

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(2) Whether the design of the proposed development maximizes use of alternate modes of transportation (pedestrian, bicycle, and transit) reducing the need for vehicular movement between residential and commercial/employment land uses.

(3) Whether the proposed development reflects a land use mixture consistent with the County Comprehensive, Community, and Corridor Plans.

(D) *Open space/green area within the PUD District.*

(1) Open space/green area within the proposed PUD development shall be calculated based on gross project area, and provided at the following minimum rates:

<i>Gross Density</i>	<i>Required Minimum Percentage of Open Space/Green Area Exclusive of Floodplain and Stormwater Management Facilities</i>
3-6 du/acre	30%
6-12 du/acre	35%
12-20 du/acre	40%

(2) The County Council may require public parks and recreation facilities in addition to open space/green area. (See also § 1-19-10.500.8(A).)

(3) A reduction of not more than 50% of the open space/green area requirement may be granted where the County Council finds that open space/green area requirements are met through the use of low impact development techniques, environmental site design techniques, open space green area located in close proximity to the proposed development (to include public park facilities), or a combination thereof. (See also § 1-19-10.500.8(A)).

(E) Building square footages will be used to determine the land use percentages within mixed-use buildings.

(F) The County Council may in its sole discretion, deny, reduce, or increase the size, type, location, and/or mixture of the various land use components if it determines that the change is appropriate for the site or overall area of the PUD.

(G) As part of Phase II execution, the Planning Commission may approve minor modifications to individual land use location (such as single-family detached, duplex, or townhouse), provided that the location of the overall land use component (residential) within the site has not been modified. Any change in the amount or percentage mix of commercial and/or residential development of a PUD project having Phase I approval, must be approved by the County Council under the provisions of this division.

(H) *Design requirements: density, setbacks, and height within the PUD district.*

(1) *Density.*

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(a) Gross density of a proposed PUD development shall comply with the following table. The gross density may not exceed the maximum density specified by the County Comprehensive Plan residential land use designation of the subject property:

<i>County Comprehensive Plan Land Use Designation</i>	<i>Dwelling Units per Acre</i>
Low Density Residential	3-6 du/ac
Medium Density Residential	6-12 du/ac
High Density Residential	12-20 du/ac

(b) Where the tract of land receiving the PUD District has 2 or more residential land use designations, then the density may be calculated as a weighted average of the density ranges as specified for the residential land use designations in which the PUD is proposed.

(c) Where the tract of land receiving the PUD District has both residential and natural resource land use designations, the density may be calculated based on the combined area of the land use designations. (See also § 1-19-10.500.9(B)(2).)

(d) The maximum density of the Planned Development District shall be approved at Phase I by the County Council after review and evaluation of the following factors:

1. Existing and planned availability of public facilities and utilities.
2. Access to existing or planned transportation networks with consideration that the highest density commercial, employment, and residential developments should be located near access to major thoroughfares, public transportation systems, and transit hubs to facilitate smart growth principles and compact development.
3. The physical characteristics of the site proposed for development with particular emphasis on development constraints which may restrict achievable density and dwelling type, including natural features such as: [steep slopes and floodplain.]
 - a. FEMA floodplain boundaries, including 25' floodplain buffer.
 - b. Flooding soils, including 25' buffer.
 - c. Priority forest conservation and forestation areas as listed under § 1-21-40(B).
 - d. Jurisdictional wetland boundaries and 25' buffers.
 - e. Hydrography, including perennial and intermittent streams and stream body buffer setback.
 - f. Steep slopes (over 25%) associated with hydrological features and/or erodible soils.
 - g. Nonresidential components (i.e. commercial areas).
 - h. Roadways and other land proposed to be dedicated for public purpose.
4. The shape of the site proposed for development.
5. The design of the proposed development.
6. Any other relevant information that may have a bearing on the achievable density of the proposed development.

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(e) Planned Development Districts are subject to the MPDU requirements set forth in this chapter. Density bonus will be determined as part of the Phase I review process.

(2) *Setbacks and height.* Setbacks and height shall be established by the Planning Commission at Phase II consistent with the general development standards as provided in § 1-19-10.500.9, reflecting the proposed development pattern and land use within the Phase I project concept plan or portion thereof, reflecting the location of the project within the county with consideration of the existing development pattern surrounding the proposed development, and consistent with the appropriate community and corridor plans.

§ 1-19-10.500.7. LAND USE, MIXTURE, AND DESIGN REQUIREMENTS WITHIN THE MXD DISTRICT.

(A) *Land use permitted within the MXD District.* General land use type and location shall be established by the County Council in concept at Phase I and specifically by the Planning Commission through site development plan review at Phase II. Land uses permitted within the MXD District are limited to:

(1) *Residential.* Medium density and high density residential uses including single family, townhouse, and multifamily. Residential land uses shall be permitted within the limited industrial and office research industrial land use designations only as identified within the Comprehensive, Community, or Corridor Plan.

(2) *Commercial.* Those uses permitted within the General Commercial Zoning District Except for the following: auction house, lumber yard, mobile home sales, boat sales and service, farm equipment sales and service, carpentry, electric, plumbing, welding, printing and upholstering establishments, fencing/pool/siding contractors, agricultural products processing, bottling plant, stone monument processing and sales, bus depot, animal auction sales, and racetrack.

(3) *Employment.* Employment shall be limited to those uses permitted within the Office Research Industrial Zoning District.

(4) *Institutional.* Institutional uses shall be limited to recreational and community activities, public services and facilities, health care facilities, schools, and institutional uses as provided within § 1-19-5.310 Use Table.

(5) Uses which are customary, accessory or associated with permitted uses as provided within this chapter, or those accessory uses specifically approved by the Zoning Administrator.

(B) *Land use mixture within the MXD District.*

(1) Land use mixture within the MXD District shall be established by the County Council at Phase I in accordance with the following:

<i>Land Use</i>	<i>Minimum Percentage of Total Project</i>	<i>Maximum Percentage of Total Project</i>
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Residential	n/a	25% gross project acreage exclusive of [floodplain] <u>FEMA floodplain boundaries, including 25' floodplain buffer, flooding soils, including 25' buffer, priority forest conservation and forestation areas as listed under § 1-21-40(b), jurisdictional wetland boundaries and 25' buffers, hydrography, including perennial and intermittent streams and stream body buffer setback, steep slopes (over 25%) associated with hydrological features and/or erodible soils.</u>
Commercial (where project includes residential component)	n/a	25% gross project acreage exclusive of [floodplain] <u>FEMA floodplain boundaries, including 25' floodplain buffer, flooding soils, including 25' buffer, priority forest conservation and forestation areas as listed under § 1-21-40(b), jurisdictional wetland boundaries and 25' buffers, hydrography, including perennial and intermittent streams and stream body buffer setback, steep slopes (over 25%) associated with hydrological features and/or erodible soils.</u>
Commercial (Where project does not include residential component)	n/a	45% gross project acreage exclusive of [floodplain] <u>FEMA floodplain boundaries, including 25' floodplain buffer, flooding soils, including 25' buffer, priority forest conservation and forestation areas as listed under § 1-21-40(b), jurisdictional wetland boundaries and 25' buffers, hydrography, including perennial and intermittent streams and stream body buffer setback, steep slopes (over 25%) associated with hydrological features and/or erodible soils.</u>

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Combined commercial and residential portions of the MXD	n/a	40% gross project acreage or 50% of the gross project acreage exclusive of [floodplain] <u>FEMA floodplain boundaries, including 25' floodplain buffer, flooding soils, including 25' buffer, priority forest conservation and forestation areas as listed under § 1-21-40(b), jurisdictional wetland boundaries and 25' buffers, hydrography, including perennial and intermittent streams and stream body buffer setback, steep slopes (over 25%) associated with hydrological features and/or erodible soils, whichever is less</u>
Open space/green area	20% of total area devoted to commercial and employment/industrial uses	n/a
	30% of total area devoted to residential uses	
The remainder of the site shall be used for employment, civic/institutional, and cultural uses.		

(2) A mixture of residential and commercial/employment land uses shall be provided within the MXD District where applied to areas reflecting a County Comprehensive Plan land use designation of Mixed Use Development. The proposed development shall provide a mixture of land uses consistent with applicable County Community or Corridor Plans.

(3) The County Council may require public parks and recreation facilities in addition to open space/green area. (See also § 1-19-10.500.8(A).)

(4) A reduction of not more than 50% of the open space/green area requirement may be granted where the County Council finds that open space/green area requirements are met through the use of low impact development techniques, environmental site design techniques, open space green area located in close proximity to the proposed development (to include public park facilities), or a combination thereof. (See also § 1-19-10.500.8(A)).

(C) Building square footages will be used to determine the land use percentages within mixed-use buildings.

(D) The County Council may in its sole discretion, deny, reduce, or increase the size, type, location, and/or mixture of the various land use components if the County Council determines that

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the change is appropriate for the site or overall area of the MXD and necessary to achieve the purpose and intent of the MXD District.

(E) As part of Phase II execution, the Planning Commission may approve minor modifications to individual land use location (such as single-family detached, duplex, or townhouse), provided that the location of the overall land use component (residential) within the site has not been modified. Any change in the amount or percentage mix of commercial and/or residential development of a MXD project having Phase I approval, must be approved by the County Council as a new Phase I application.

(F) *Design requirements: density, setbacks, and height within the MXD District.*

(1) *Density.*

(a) Gross density within a MXD District including residential dwelling units shall be established by the County Council at Phase I.

(b) The maximum density of the [Planned Development District] MXD shall be established at Phase I by the County Council after review and evaluation of the following factors:

1. Existing and planned availability of public facilities and utilities.
2. Access to existing or planned transportation networks with consideration that the highest density commercial, employment, and residential developments should be located near access to major thoroughfares, public transportation systems, and transit hubs to facilitate smart growth principles and compact development.

3. The physical characteristics of the site proposed for development with particular emphasis on development constraints which may restrict achievable density and dwelling type, including natural features such as [steep slopes and floodplain] FEMA floodplain boundaries, including 25' floodplain buffer, flooding soils, including 25' buffer, priority forest conservation and forestation areas as listed under § 1-21-40(B), jurisdictional wetland boundaries and 25' buffers, hydrography, including perennial and intermittent streams and stream body buffer setback, steep slopes (over 25%) associated with hydrological features and/or erodible soils.

4. The shape of the site proposed for development.

5. The design of the proposed development.

6. Any other relevant information that may have a bearing on the achievable density of the proposed development.

(c) Planned Development Districts are subject to the MPDU requirements set forth in this chapter. Density bonus will be determined as part of the Phase I review process.

(d) Where a portion of the tract of land receiving the MXD District reflects the natural resource land use designation the density may be calculated based on the combined area of the land use designations. (See also § 1-19-10.500.9(B)(2).)

(2) *Setbacks and height.* Setbacks and height shall be established by the Planning Commission at Phase II consistent with the general development standards as provided in § 1-19-10.500.9, reflecting the proposed development pattern and land use within the Phase I project

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concept plan or portion thereof, reflecting the location of the project within the county with consideration of the existing development pattern surrounding the proposed development, and consistent with the appropriate community and corridor plans.

§ 1-19-11.100 DEFINITIONS

DISTRICT. A portion of the unincorporated territory of the county within which certain uniform regulations or requirements apply under this chapter.

DIVISION. The Frederick County Division of Planning and Permitting, and any successor to this Division.

DOG RUN, OUTSIDE. An enclosed outdoor area intended for the exercising and/or containment of dogs and similar animals.

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FREDERICK COUNTY GOVERNMENT
OFFICE OF THE COUNTY EXECUTIVE

Jan H. Gardner
County Executive

TO: Frederick County Council
FROM: County Executive Jan H. Gardner 
DATE: February 10, 2020
SUBJECT: Forest Conservation and Environmental and Historic Protection

ISSUE/BACKGROUND:

Growth has been and will continue to be a hot topic in Frederick County. As the County grows, we need to do our best to protect what we love and value about our cherished community including protecting our environmental and historic assets.

We know that Frederick County residents value our rich history, our open spaces and our agricultural heritage. Citizens lament the loss of forest and our historic and cultural amenities as the result of development.

We have witnessed mass grading and significant loss of forest, particularly around Lake Linganore, as development has occurred. Citizens have expressed their displeasure with the loss of forest but have become angry and frustrated when they learn that often no mitigation or planting of trees elsewhere has been required by the County.

The good news is that we can take action to prevent the loss of forest and protect our historic and cultural amenities now into the future.

To protect forest, our environmental resources, and our rich history, I have proposed legislation to ensure that we consider protection of these assets at the time of rezoning, early in the process. We know the beginning often determines the end. If we don't protect these features from the outset, we may lose the opportunity to do so.

As the County Council debates climate change, it is important that we do something very fundamental - protect our sensitive environmental areas and ensure that Frederick County does not lose its forests. This is consistent with Livable Frederick and our mapping of our green infrastructure.

I am proposing two new pieces of legislation:

1. An amendment to our forest resource ordinance to strive for no net loss of forest through the inclusion of a 1:1 replacement of trees lost during the development process.
2. An update to our zoning ordinance adding consideration of our environmental and historic resources at the point of rezoning. This proposal updates and clarifies criteria for these purposes as well as for transportation adequacy.

Forest Resource Ordinance (FRO):

The goal of the amendment to the Forest Resource Ordinance is to stop the loss of forest in Frederick County. Between 2001 and 2005, 4,000 acres of forest cover in Frederick County disappeared. Some of this loss was due to insect infestation and nature deforestation but much of it was the result of new development and the clearing of trees.

In 2008, the County Commissioners passed a Forest Resource Ordinance amendment to require a 1:1 replacement of every acre of forest cleared for development. Carroll County has had a 1:1 replacement ratio in place for many years, so this requirement brings us in line with our neighbor.

In 2011, the former Board of County Commissioners eliminated this requirement and reduced the local law to minimum state requirements. Between 2012 and 2019, Frederick County experienced a net loss of about 480 acres of forest or an average of about 70 acres annually. We can do better and achieve no net loss of forest by simply restoring the 1:1 replacement ratio.

It is important to note that the County invests millions of dollars to plant trees through efforts like Creek ReLeaf to achieve environmental goals and clean water requirements in our MS4 permit. We know that forest is important to protecting our environment, ensuring healthy streams, and providing habitat. Street trees in new developments cannot achieve these goals. Preventing forest loss is much less expensive than mitigating pollution and cleaning our waterways after the fact. Protecting and preserving our forests makes good financial sense.

Zoning Ordinance Amendments

The goal of the proposed amendments to the zoning ordinance are to protect forest, environmentally sensitive areas, and historic assets at the point of rezoning. Evaluating and protecting environmental features and historic assets prior to development taking place and before land is rezoned for development is forward thinking and puts our community's values first. We know our residents value what is special about Frederick County and want us to protect these resources.

In addition, the zoning amendments update and clarify criteria for evaluating and determining the adequacy of the transportation network at the point of rezoning. While transportation adequacy has long been a topic of consideration, the addition of criteria better defines and considers cumulative impacts on our transportation network.

Clearly road congestion and traffic safety are an issue of concern for our residents and businesses alike. Considering these criteria upfront, early in the development process, ensures a better outcome for the citizens we serve. While we cannot undo some of the decisions of the past, we can and should do better planning now into the future.

County staff has provided the technical details of these two proposals in separate staff reports.

RECOMMENDATION:

As County Executive, I urge the County Council to adopt the proposed amendments to the Frederick County Forest Resource Ordinance and to Chapter 1-19 of the Frederick County Zoning Ordinance. The adoption of these legislative initiatives will protect environmental and historic resources, prevent the net loss of forest cover to new development, and will ensure a bright future for Frederick County.



FREDERICK COUNTY GOVERNMENT

DIVISION OF PLANNING & PERMITTING

Jan H. Gardner
County Executive

Steven C. Horn, Division Director

TO: Frederick County Council

THROUGH: Jan H. Gardner, County Executive

FROM: Steven C. Horn, Planning & Permitting Director 
Michael Wilkins, Development Review and Planning Department Director 

DATE: February 11, 2020

SUBJECT: Proposed Bill - Amendments to Chapter 1-19 of the Frederick County Code (Zoning Ordinance)

ISSUE:

Should the County Executive support the staff recommendation regarding amendments to Chapter 1-19 of the Frederick County Code (Zoning Ordinance) to update and clarify transportation, environmental resource protection and historic preservation criteria and forward the attached proposed bill (Attachment 1) to the County Council for its consideration?

BACKGROUND:

The proposed Zoning Ordinance amendments will add more specific approval criteria for evaluating rezoning applications.

Changes to §1-19-3.110.4 adds environmental and historic preservation criteria for all Euclidian zoning requests.

Changes to §1-19-10.500 adds environmental, historic preservation, and transportation infrastructure criteria to the Planned Development Districts, which includes the Planned Unit Development (PUD) and Mixed Use Development (MXD) floating zones. These additional criteria will insure that the existing Purpose and Intent language found under § 1-19-10.500.1 is being met.

Additional Criteria for Zoning Amendments

§1-19-3.110.4 lists the specific criteria that must be met in order to change zoning district boundaries or changing a property from one zoning designation to another. This bill proposes to add two new criteria:

(7) Identification of sensitive environmental resources and how impacts to these resources are avoided or minimized to the maximum extent practicable.

(8) Identification of historic resources and how impacts to these resources are avoided or minimized to the maximum extent practicable.

Whether a property is being rezoned through a comprehensive planning effort or at the request of a property owner, the evaluation of impacts to environmental and historic resources would be required before a decision of the rezoning request could be made.

Additional Criteria for Planned Development District Zoning Applications

The Planned Development Districts (PDD) section of the Zoning Ordinance outlines the requirements for establishing Planned Unit Development (PUD) zoning or Mixed Use Development (MXD) zoning on a property. The PDD section of the code begins by establishing the purpose and intent of these floating zones.

§1-19-10.500.1 of the Zoning Ordinance establishes the purpose and intent of a PDD and includes the following;

(D) Promote building and site design that reduces dependence on vehicular movement through the provision of bicycle, pedestrian, and transit friendly elements which include transportation circulation networks linking internal and external residential, commercial, employment areas, and recreation, open spaces and public facilities;

(F) Promote the protection, preservation, and integration of historic resources into the planned development through reuse, adaptive use, and rehabilitation;

(G) Promote the evaluation and integration of natural features into building and site design;

The only proposed changes to the purpose and intent section is to add language to (G):

(G) Promote the evaluation, protection, and integration of natural features and sensitive environmental resources into building and site design

While the purpose and intent language identifies environmental features, historic preservation, and transportation infrastructure as important elements, the Approval Criteria (§1-19-10.500.3) and Application requirements (§1-19-10.500.5) do not include adequate language to fully evaluate how applications are meeting these goals.

Changes to §1-19-10.500.3 (Approval Criteria) include:

- New language in §1-19-10.500.3 (E) further addresses adequacy of the transportation network by including consideration of pipeline uses in the area of an application, safety of the road network, natural resource impacts, bicycle safety, and an assessment of changes to future traffic volumes.
- Addition of (K) to protect sensitive environmental resources.
- Addition of (L) to protect historic resources.

Changes to §1-19-10.500.5 (Application) include:

- Additional language to include environmental buffers and mapped green infrastructure on the required environmental and natural features map.
- Additional language to add priority forest conservation areas, wetlands, streams, steep slopes, and nonresidential components to the list of areas to be excluded from the buildable acreage calculations.
- New language to analyze impacts to scenic view sheds.
- New language to identify and preserve historic resources.
- New language that identifies sensitive environmental features and protect requires maximum effort to avoid impacts to those resources.
- New language to require analysis of road network adequacy and identification of necessary road improvements.



FREDERICK COUNTY COUNCIL

Local Government Fiscal and Policy Note

CONTACT INFORMATION AND GENERAL INSTRUCTIONS

Bill Number/Reference:	20-05
Bill Title:	Amendments to Chapter 1-19 of the Frederick County Code (Zoning Ordinance)
Local Government Agency:	Frederick County Divisions of Finance and Planning & Permitting
Prepared By:	Erin White, Steve Horn, and Mike Wilkins
Title:	Deputy Director of Finance, Planning & Permitting Director and Development Review and Planning Department Director
Phone Number:	301-600-1193, 301-600-1151 and 301-600-2329
E-Mail Address:	ewhite@frederickcountymd.gov , shorn@frederickcountymd.gov and mwilkins@frederickcountymd.gov
Due Date:	March 24, 2020
Date Submitted:	

FREDERICK COUNTY COUNCIL

Local Government Fiscal and Policy Note

Date:						
<p>Please respond to the questions below. If you prefer to provide responses or additional information in a separate file or document, send the file or document in a separate e-mail to rcherney@frederickcountymd.gov with the bill number/reference in the subject line.</p>						
1.	Describe the impact of this proposed legislation on your agency (operations, revenues, expenditures, etc). If there is no impact, <u>please explain why.</u>					
<p>This legislation includes amendments to Chapter 1-19 of the Frederick County Code (Zoning Ordinance) to update and clarify transportation, environmental resource protection and historic preservation criteria before a property can be rezoned. No changes in County revenue or in staffing/operating expenses are anticipated to result from the changes to the County Code.</p>						
2.	Please indicate whether the proposed legislation will affect small businesses in Frederick County, and if it will, please provide any information you may have which could be useful in determining the economic impact on small businesses.					
<p>This legislation should not have an impact on small businesses in Frederick County.</p>						
FISCAL IMPACT SUMMARY – SHOW (DECREASE) IN PARENTHESES						
<u>REVENUES</u>						
3.	Analysis of estimated increase (or decrease) in government revenues. Please estimate below any anticipated increase (or decrease) in revenues resulting from this legislation. Please be aware of any delayed effective dates in the bill or other factors that may cause revenue increases/decreases to begin in later years.					
	<u>Source</u>	<u>FY 2020</u>	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>
	N/A					
	TOTAL \$	\$	\$	\$	\$	\$
	<p>Please explain how the above estimated increase(s) or decrease(s) were arrived at, including any calculations and/or assumptions made. Please also explain any variation if the revenue increase(s)/decrease(s) are not constant.</p>					
<p>N/A – It is not anticipated that this legislation would create additional revenue nor decrease any revenue of the County.</p>						

FREDERICK COUNTY COUNCIL

Local Government Fiscal and Policy Note

<u>EXPENDITURES</u>						
4.	Analysis of estimated increase (or decrease) in government expenditures . Please estimate below any anticipated increase (or decrease) in expenditures resulting from this legislation. Please be aware of any delayed effective dates in the bill or other factors that may cause expenditure increases/decreases to begin in later years.					
A. Salaries & Wages		<u>FY 2020</u>	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>
FTE Employees - _____ # of positions						
Fringe Benefits						
TOTAL (Salaries, wages & benefits)		\$	\$	\$	\$	\$
N/A	Please provide an explanation of the need for the number and type of any personnel listed above, including (1) what specific provision(s) of the bill necessitate additional staff; (2) what the duties of each type employee will be; and (3) why existing personnel cannot absorb the additional work. Please also certify the wage/salary rate and % fringe rate (if differing rates apply) for each personnel classification.					
B. Other Operating Expenses		<u>FY 2020</u>	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>
Technical/Special Fees, Grants/Subsidies						
Communications-Phone, Postage						
Travel, Food, Auto, Fuel & Utilities						
Contractual Services						
Supplies						
Equipment-Replacement						
Equipment-Additional						
Land & Structures, Fixed Charges						
Other (Please Specify on Extra Page(s))						
TOTAL (Expenditures)		\$	\$	\$	\$	\$
	On the next page, please provide brief descriptions/breakdowns of the above "Other Operating Expenses."					
	Please explain below any additional calculations or assumptions made in estimating the "Other Operating Expenses" that will help us to understand the amounts and timing of the expenses.					
N/A – It is not anticipated that this legislation would create the need for additional staff or increase the operating expenses of the County.						

FREDERICK COUNTY COUNCIL

Local Government Fiscal and Policy Note

4. (cont'd)

C. Operating Expense Descriptions/Breakdowns

Please provide below a short description of the specific purpose of each expense listed under 4B. If any amount(s) listed under 4B represent(s) a total of multiple expenses, provide a breakdown of the fiscal 2018 amount with a short description of each expense (for example, if \$2,500 is listed for Communications – Phone, Postage, a statement such as “\$1,500 for cellphone charges for two new inspectors and \$1,000 for postage for mailings to permittees to notify them of changes to inspection requirements.”)

Fiscal 2020 Expenditures

Technical/Special Fees, Grants & Subsidies description/breakdown	\$
Communications – Phone, Postage description/breakdown	\$
Travel, Food, Auto Operations, Fuel & Utilities description/breakdown	\$
Contractual Services description/breakdown	\$
Supplies description/breakdown	\$
Equipment-Replacement description/breakdown	\$
Equipment-Additional description/breakdown	\$
Land & Structures, Fixed Charges description/breakdown	\$
Other (Please Specify) description/breakdown	\$

FREDERICK COUNTY COUNCIL

Local Government Fiscal and Policy Note

<u>ADDITIONAL POLICY IMPLICATIONS/CONCERNS</u>

Please submit BY E-MAIL to: Ragen Cherney, Legislative Director/Chief of Staff
Frederick County Council • E-Mail: RCherney@FrederickCountyMD.gov